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House Bill _____
By _____

Senate No. SB0711
By Crowe

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, Part 4, relative to the enforcement and collection of fines and court costs imposed for the offense of driving under the influence of an intoxicant.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 10, Part 4, is amended by adding the following as a new section:

(a) When a person is convicted of violating the provisions of Tennessee Code Annotated, Section 55-10-401, a presumption is created that the court shall order an immediate assignment to the clerk of the court of such person's wages, salaries, commissions, pensions, annuities, and other income due or to become due to such person for the purpose of paying the court costs accrued in the case and the fine imposed by the court.

(b) Income assignment under this section shall not be required if, upon proof by such person, the court enters a written finding of fact in the order of the court that there is good cause not to require immediate income assignment. "Good cause" may mean that the person has entered into a written agreement to otherwise pay such fine and

costs or that such an income assignment would interfere with, prevent or decrease payments made to satisfy an existing child support order. Inconvenience to the person or some degree of hardship to the person shall not be considered “good cause” under this subsection.

(c) If an income assignment is ordered pursuant to this section, the procedure for such assignment, notice to employer or other source of income, method of payment and official to whom payment is made shall be done in the same manner as is provided by law for other court-ordered income assignments.

(d) The amount to be assigned under the income assignment withheld for payment of fine and costs may not be in excess of fifty percent (50%) of the income due such person after withholding taxes and FICA are deducted.

(e) The assignment or any subsequent modification is binding upon any employer, person or corporation, including successive employers, fourteen (14) days after mailing of the notice from the clerk of the court. The amount shall be sent to the clerk within ten (10) days of the date the person is paid, and is binding until further notice. The employer, person or corporation must notify the clerk upon termination of employment or income payments and provide the clerk with the person’s last known address and the name and address of the new employer or source of income, if known.

(f) It is unlawful for an employer to use the assignment ordered pursuant to this section as a basis for discharge or any disciplinary action against such person. Compliance by an employer, other person, institution or corporation with the order shall operate as a discharge of the liability of such employer, other person, institution or corporation to the affected person as to that portion of the income so affected. If the employer, other person, institution or corporation fails to comply with the notice, such employer, other person, institution or corporation is liable for any amounts up to the accumulated amount which should have been withheld. An employer is subject to a fine for a Class C misdemeanor if the income assignment is used as a basis to refuse to

employ a person or to discharge such person or for any disciplinary action against such person.

(g) An assignment under this section shall take priority over any other assignment or garnishment of wages, as described in Tennessee Code Annotated, Title 26, Chapter 2, or salary, commissions or other income, except those deductions made mandatory by law or hereafter made mandatory or assignments made pursuant to Tennessee Code Annotated, Title 36, Chapter 5, Part 5, for child support.

(h) Unless an income assignment ordered by the court pursuant to this section is modified or terminated by such court, the assignment shall remain in effect until all costs accrued and the fine imposed are paid in full.

(i) "Employer, person, corporation or institution," as used in this section, includes the federal government, the state and any political subdivision thereof and any other business entity which has in its control funds due to be paid to satisfy the costs accrued and fine imposed for a violation of Tennessee Code Annotated, Section 55-10-401.

(k) Any employer, person, corporation or institution which is ordered to pay an income assignment on behalf of an individual may charge the obligor parent an amount of up to five percent (5%) not to exceed five dollars (\$5.00) per month for such service.

SECTION 2. This act shall take effect July 1, 1995, the public welfare requiring it.